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IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1977

No. 77-251

LOCAL UNION NO. 657 OF THE UNITED BROTHERHOOD OF CARPENTERS
AND JOINERS OF AMERICA OF SHEBOYGAN COUNTY,
Petitioner,

vs.

WILLIAM SIDELL, RONALD STADLER and INTERNATIONAL UNITED
BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA,
Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals
for the Seventh Circuit

**BRIEF FOR RESPONDENTS
IN OPPOSITION**

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OPINIONS BELOW

The opinion of the United States Court of Appeals for the Seventh Circuit is reported at 552 F.2d 1250 and printed in slip opinion form in the appendix to the petition (Pet. App. A-1 ff). The opinion of the United States District Court for the Eastern District of Wisconsin is reported at 416 F.Supp. 890 and reprinted in the appendix to the petition (Pet. App. A-20 ff).

JURISDICTION

The jurisdictional requisites are adequate set forth in the petition.

QUESTIONS PRESENTED

1. Whether court of appeals decided an important question of federal law in holding that the constitution and laws of the United Brotherhood of Carpenters & Joiners of America (a) empowered its general president to direct a local union to affiliate with a district council and (b) did not provide the local union with an internal appeal to its next general convention?

2. Whether the court of appeals' holding that interpretations of union constitutions by responsible officers will be judicially accepted unless patently unreasonable, presents an important question of federal law warranting review?

3. Whether in upholding the district court's summary judgment on a record which amply delineated the reasons for the affiliation directive and its impact on the local union, the court of appeals has sanctioned such a departure from the accepted and usual course of judicial proceedings as to call for exercise of this Court's power of supervision.

STATUTE AND RULE INVOLVED

Section 301(a) of the Labor Management Relations Act, as amended, 29 U.S.C. § 185(a) is printed in the petition. (Pet. App. 25). Rule 56 of the Federal Rules of Civil Procedure is reprinted below in material part:

* * *

(b) For Defending Party. A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory

judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in his favor as to all or any part thereof.

(c) * * * The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.

* * *

(e) * * * When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him.

STATEMENT OF THE CASE

On August 4, 1975 the general president of the United Brotherhood of Carpenters & Joiners of America ordered Local Union 657 to affiliate with the Brotherhood's district council in an adjacent area on the ground that it would serve the best interests of the membership.¹ On September 12 General President Sidell provided the local union with a full and detailed statement of his reasons and authority for the directive² and

¹ Exh. A. to complaint.

² Exh. F to Stadler affidavit dated February 14, 1976. Section 6A of the constitution and laws, cited in Sidell's September 12 letter, permits the general president to decide whether to order affiliation by way of administrative investigation rather than adjudicative procedure, a point Local Union 657 has conceded all along.

thereafter, Local Union 657 accepted Sidell's invitation to present the Brotherhood's general executive board with a full and detailed rebuttal statement in support of its appeal.³ On November 3, the general executive board voted unanimously to uphold the directive and deny the appeal.⁴ On December 2 the Brotherhood rejected Local Union 657's attempt to appeal the matter further to the next general convention.⁵

Local Union 657 then brought this action under Section 301 of the Labor Management Relations Act, 29 U.S.C. § 185, against the United Brotherhood of Carpenters & Joiners of America, its general president and one of its general representatives, alleging breach of the Brotherhood's constitution and laws and seeking an injunction restraining enforcement of the directive. The local union principally contended that respondents lacked power under the constitution and laws to direct Local Union 657 to affiliate with a district council of the Brotherhood.⁶ A unanimous court of appeals, in agreement with the district court, held the affiliation directive within the "discretionary decisional authority [delegated by the constitution and laws] to the general president where, as here, he has found it in the best interests of the Brotherhood and its members 'locally or at large.'"⁷ Local Union 657 also com-

³ Exh. A to Stadler's supplemental affidavit dated April 19, 1976.

⁴ Exh. B to complaint.

⁵ Exh. D to complaint.

⁶ The complaint, in paragraph 21, alleges that "the General President, William Sidell, the General Executive Board and General Representative Stadler do not have any powers under the Constitution and Laws to order the plaintiff Local to affiliate with the present existing Fox River Valley District Council."

⁷ 552 F.2d at 1256, Pet. App. 16. Section 6A of the constitution and laws provides in relevant part as follows: "The United Brotherhood is empowered, upon agreement of the Local Unions and the Councils directly affected, or in the discretion of the General President subject to appeal to the General Executive Board, where the

plained that respondents breached its alleged right under the constitution and laws to an internal appeal beyond the general executive board to the Brotherhood's next general convention. The court of appeals unanimously upheld the general executive board's rejection of the local union's claim to further appeal as an interpretation within its constitutional authority.⁸

Responding to the complaint and application for preliminary injunction defendants answered and moved for summary judgment, challenging federal jurisdiction as well as defending on the merits. Local Union 657 filed several affidavits attacking the affiliation directive as arbitrary because not in fact in the best interest of its own members.⁹ The district court found that the "meaningful circumstances surrounding this dispute are not in issue" and that the record "amply delineated" the reasons for the directive and its impact upon the local union.¹⁰ Although it dismissed the complaint on subject-matter jurisdiction grounds, the district court also accepted respondents' defense on its merits, finding that the directive was made pursuant to Section 6A of

General President finds that it is in the best interests of the United Brotherhood and its members, locally or at large, to establish or dissolve any local Union or Council, to merge or consolidate Local Unions or Councils, to establish or alter the trade or geographical jurisdiction of any Local Union or Council, to form Councils and to permit, prohibit, or require the affiliation with or disaffiliation from any Council by any Local Union, including the right to establish state-wide, province-wide and regional Local Unions or Councils having jurisdiction over specified branches or subdivisions of the trade."

⁸ Section 6A, which authorized the affiliation order, permitted the local union to appeal only to the general executive board. Section 57G declared that general executive board decisions in all cases involving formation of councils shall be final. The general executive board interpreted "formation of councils" to include the affiliation of local unions with existing district councils. 552 F.2d at 1257, Pet. App. 17.

⁹ Affidavits of Carl Mohar dated January 31 and April 5, 1976.

¹⁰ 416 F.Supp. at 891, Pet. App. 21.

the constitution and laws.¹¹ The Seventh Circuit reversed the lower court's holding on the jurisdictional point but affirmed its dismissal of the complaint, ruling that respondents' actions in directing affiliation and rejecting any further internal appeal were supported by the constitution and laws.¹² On May 19, 1977 the court of appeals denied Local Union 657's petition for rehearing *en banc*. The petition for writ of certiorari was timely filed on August 15, 1977.

¹¹ *Id.*

¹² 552 F.2d at 1256-1257, Pet. App. 14-18. Because the parties had fully litigated the merits of these claims in the district court, it was appropriate for the court of appeals to uphold the summary judgment on the different ground. *United States v. General Motors Corporation*, 171 U.S. App. D.C. 27, 518 F.2d 420, 441 (D.C. Cir., 1975).

ARGUMENT

I. No Important Questions of Federal Law Warranting Review Are Presented.

Although the petition purports to present a question of Constitutional dimensions,¹³ there is no substance whatever to the rhetoric. As even the petition subsequently makes clear, the issues in this case are singularly narrow and unworthy of review by this Court: rights claimed under the constitution and laws of the Brotherhood rather than under federal law; an insubstantial challenge to the settled principle that courts will accept interpretations of the union's constitution by its duly authorized officers unless patently unreasonable; and misconceived objections to the affirmance of summary judgment by the court below.

This Court will grant review of a decision of a court of appeals only for the special and important reasons described in Rule 19.¹⁴ Although its petition is not explicit on the point, Local Union 657 appears to contend that this case presents an important question of federal law which should be settled by this Court. Surely, however, the matter of the correct interpretation of the Brotherhood's constitution and laws, either with respect to the power to direct affiliation or the right to a further internal appeal, presents no question of federal law. Likewise

¹³ Whether the courts below afforded Local Union 657 "due process of law" (Pet. 3).

¹⁴ "1. * * * (b) Where a court of appeals has rendered a decision in conflict with the decision of another court of appeals on the same matter; * * * or has decided an important question of federal law which has not been, but should be, settled by this court; or has decided a federal question in a way in conflict with applicable decisions of this court; or has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by a lower court, as to call for an exercise of this court's power of supervision."

the ruling that a good faith determination under "the best interest of the Brotherhood and its members" standard may not be judicially second-guessed represents just an interpretation that the Brotherhood's organic law confides discretionary powers in the general president, not an issue of federal law.¹⁵

In accepting official interpretations of union constitutions unless patently unreasonable, the court of appeals applied the same standard of review as the Secretary of Labor¹⁶ and other federal courts¹⁷ have consistently used. Far from a novel principle

¹⁵ "[I]t is not our place to balance the competing interests. This suit being for breach of contract, we are not empowered to rewrite the Brotherhood's constitution to strip Sidell of his authority to require this affiliation. * * * As even plaintiff has admitted this Court should not second-guess the Brotherhood in the determination of its internal affairs." 552 F.2d at 1256, Pet. App. 16.

¹⁶ "The interpretation consistently placed on a union's constitution by the responsible union official or governing body will be accepted unless the interpretation is clearly unreasonable." 29 C.F.R. § 452.3. "Plaintiff [Secretary of Labor] concedes that the standard utilized in judicial review of an interpretation given by a union to its constitution is that an interpretation will be accepted unless that interpretation is clearly unreasonable." *Brennan v. Employees Independent Association*, 381 F.Supp. 23, 25 (M.D. Pa., 1974).

¹⁷ "Courts are reluctant to substitute their judgment for that of union officials in the interpretation of the union's constitution, and will interfere only where the official's interpretation is not fair or reasonable." *Vestal v. Hoffa*, 451 F.2d 706, 708 (6th Cir., 1971); "We deem applicable the principle that courts will accept the correctness of an interpretation fairly placed on union rules by the union's authorized officials." *English v. Cunningham*, 282 F.2d 848, 850 (D.C. Cir., 1960); "[Courts] must avoid overzealous intervention in the internal affairs of unions with its concomitant atrophic effect on the ability of the organization to function as a disciplined unit, being careful not to subject the union's interpretation of its own industrial jurisprudence to the 'removed, untutored, and possibly antipathetic judgment of a court.'" *Lewis v. American Federation of State, County & Municipal Employees*, 407 F.2d 1185, 1192 (3d Cir., 1969); "Courts have no special expertise in the operations of unions which would justify a broad power to interfere. The internal operations of unions are to be left to the officials chosen by the members to manage those operations except in the very limited instances expressly provided by the [Labor-Management Reporting & Disclosure] Act." *Gurton v. Arons*, 339 F.2d 371, 375 (2d Cir., 1964).

warranting review here, this Court has applied the same test in interpreting the Labor Management Reporting & Disclosure Act, 29 U.S.C. 401 *et seq.*, the principal federal statute regulating internal union affairs.¹⁸ Indeed, were the courts free to substitute their judgment for the interpretations of responsible union officials, the constitutional power of the general executive board to "decide points of law * * * that may be submitted to it" would be effectively nullified.¹⁹

The contention that summary judgment was barred by Local Union 657's disagreement with the general president's reasons for concluding that affiliation would serve the best interests of the Brotherhood and its members more than misconceives the holding below, it establishes why the court of appeals thought it "not our place to balance the competing interests."²⁰ The constitution and laws leave to the general president discretion to define the best interests of the Brotherhood and its members, locally or at large. Far from a judicial test for Brotherhood power, whether affiliation will advance these interests presents issues for which the courts have no special competence.²¹ They

¹⁸ "We find nothing in either the language or the legislative history of Section 101(a)(5) that justify such a substitution of judicial for union authority to interpret the union's regulations in order to determine the scope of offenses warranting discipline for union members." *International Brotherhood of Boilermakers v. Hardeman*, 401 U.S. 233, 242-243.

¹⁹ Section 15D of the constitution and laws provides that: "The General Executive Board shall decide points of law and appeals that may be submitted to it." The court of appeals correctly held that this power encompasses the authority to interpret the constitution and laws. 552 F.2d at 1257, Pet. App. 17.

²⁰ 552 F.2d at 1256, Pet. App. 16. Local Union 657 does not contend that "the decision was tainted by bad faith nor that it did not represent the general president's actual best judgment". *Id.* Since the general president's subjective motivation is not challenged, cases dealing with the propriety of summary judgment on questions of intent or state of mind are of course inapposite.

²¹ For example, whether collective bargaining should be conducted by the district council rather than the local union is simply

are not judicial but administrative and policy questions—administrative because the Brotherhood's elected officers must decide what structure best serves the goals of the organization and its membership, policy because they must decide what those goals should be. To permit judicial oversight of the reasonableness of policy decisions constitutionally reserved to the discretion of elected officers would subvert federal policy favoring democratically responsive unions.²²

Local Union 657's assumption that local autonomy always serves the best interests of the Brotherhood and its members not only conflicts with pertinent provisions of the constitution and laws but underscores that the question respondents faced was a policy matter. The general president may direct affiliation whenever he believes it in the best interests of the Brotherhood and its members, locally or at large. In this case Sidell's finding that affiliation would advance the interests of the membership at large, a determination Local Union 657 has not challenged, is alone sufficient to support the directive. The constitutional discretion of the general president to intervene in local union affairs "in the best interest of the membership" does not transform an administrative and policy decision into a question of interpretation of the constitution and laws; the "best interest"

not the kind of question that a court can competently review. Judge Teitelbaum rejected the invitation to pass upon the reasonableness of USW negotiating strategy in the following terms: "This Court will not review the decision-making process employed and substitute its judgment for that of the parties. * * * No person sitting as a federal district court judge possesses, by virtue of his position, a monopoly on wisdom and reasonableness or a license to impose his public or private philosophy upon those who come before him. To proceed otherwise would be, in legal terminology, an abuse of discretion—in classical terminology, *hubris*." *Aikens v. Abel*, 373 F. Supp. 425, 431 (W.D. Pa., 1974).

²² "Most unions are honestly and efficiently administered and are much more likely to remain so if they are free from officious intermeddling by the courts. General supervision of unions by the courts would not contribute to the betterment of unions or their members or to the cause of labor-management relations." *Gurton v. Arons*, *supra*, n. 17.

standard is simply a commonplace "measure of control * * * found in a number of international union constitutions as part of the quid pro quo of affiliation of the local union with the parent body."²³

In sum, the court of appeals sustained the summary judgment because federal labor law does not permit the court to substitute its own view of what is in the best interests of a labor organization for the decisions of the officers or bodies of that organization which are charged under the union constitution with the responsibility for making such decisions.²⁴ Local Union 657 cannot, by casting its disagreements with respondents' policy judgment in conclusory terms ("arbitrary, unreasonable and capricious", Pet. 17) conjure up genuine issues of material fact sufficient to withstand summary judgment. The court of appeals' refusal to second-guess the general president's exercise of his constitutional discretion to direct affiliation when he found it in the best interests of the Brotherhood and its members, a view supported by federal labor policy and decisions in other federal jurisdictions, raises no important question of federal law warranting review.

II. The Decision Below Is Clearly Correct.

The court of appeals' holding that respondents acted within their constitutional powers in directing affiliation and limiting further internal appeal is clearly correct. Section 6A of the

²³ *Booth v. Carlough*, — F. Supp. —, unofficially reported at 90 LRRM 2508 (C.D. Calif., 1975). "[I]n the absence of specific legislation it does not lie within the authority of a court to give effect to its general preferences between international power and local autonomy in matters of collective bargaining. Questions as to how relations between an international and its local might best be regulated are for internal settlement or for Congress * * *". *Parks v. International Brotherhood of Electrical Workers*, 314 F.2d 886, 906 (4th Cir., 1963).

²⁴ *Booth v. Carlough*, *supra*, n. 23, quoting from *Strong v. Sheet Metal Workers International Association*, — F. Supp. —, unofficially reported at 90 LRRM 2795 (N.D. Calif., 1974).

constitution and laws could not be clearer in its import, giving the general president plenary discretion to order affiliation if he believes it in the best interest of the Brotherhood and its members, and the general executive board did not make a patently unreasonable interpretation of Section 57G in barring further internal appeal. There can be no serious question as to whether the court of appeals applied the correct standard of review to the Brotherhood's interpretation of Section 57G; the same test has been endorsed by the Secretary of Labor and by federal courts generally. And the claim that Local Union 657 has raised triable issues of fact as to whether the affiliation directive was arbitrary, unreasonable and capricious comes down to the untenable plea that this Court second-guess the general president's good faith exercise of constitutional discretion to intervene in local union matters under a "best interests of the members" standard.

CONCLUSION

For the foregoing reasons the petition for writ of certiorari should be denied.

Respectfully submitted,

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